

GN Docket No. 09-191

WC Docket No. 07-52

FILED/ACCEPTED

DEC 27 2009

Federal Communications Commission
Office of the Secretary

FILED/ACCEPTED

DEC 27 2009

Federal Communications Commission
Office of the Secretary

Testimony of Ruth Livier

Livier Productions, Inc.

FCC Workshop: Speech, Democratic Engagement and the Open Internet

My name is Ruth Livier, and I am the owner/producer of Livier Productions, Inc. We created, produce and distribute the award-winning web-series, Ylse.

Online video is in its infancy. It was only in 2005 -- a mere 4 years ago -- that a then unknown site called Youtube was launched, effectively beginning the online video revolution that has transformed the Internet from an information and communications tool to an entertainment destination. The Internet is quickly becoming a new avenue for independent content, diverse content, and minority small business ownership.

By nearly all accounts, online video has had one of the fastest consumer adoption rates among any form of media distribution. For example, In March 2009, Nielsen's reported 9.6 billion videos streamed by 130 million Web users in the month. As this chart illustrates, in the course of one year, growth of online video has continued to rise dramatically. During this period, Nielsen's estimates that online video usage in the United States has grown by more than 24 percent.

No. of Copies rec'd 0+1
List ABCDE

Video Brand	Apr-09 Total Streams (000)	Month-over-Month % Change	Year-over-Year % Change	Share of Streams
Overall Online Video Usage	9,452,996	-2.3%	24.2%	100.0%
YouTube	5,490,204	0.2%	35.5%	58.1%
Hulu	373,290	7.1%	490.4%	3.9%
Yahoo!	203,628	-12.2%	-8.1%	2.2%
Fox Interactive Media	201,362	-3.0%	-38.8%	2.1%
Nickelodeon Kids and Family Network	175,917	-10.3%	15.9%	1.9%
MSN/Windows Live	164,422	-2.7%	9.8%	1.7%
ABC.COM	148,830	-15.9%	144.8%	1.6%
MTV Networks Music	143,356	15.7%	359.6%	1.5%
Turner Sports and Entertainment Digital Network	130,559	-5.1%	60.0%	1.4%
CNN Digital Network	112,469	8.7%	32.7%	1.2%

Source: Nielsen VideoCensus

Note: Includes progressive downloads and excludes video advertising.

Advertisers have also begun to flock to online video, spending \$587 million in online video advertising in 2008. While this figure is tiny in comparison to the billions spent on television advertising, online video remains one area of advertising growth even in this economic downturn.

While the major media companies have taken to the Internet by allowing users to legally watch content ranging from classics such as The Dick Van Dyke Show to the latest episodes of your favorite shows, what is largely un-available thru their extensive libraries is a wider-range of diverse, culturally relevant programming keeping pace with the changing face of America. The U.S. Census Bureau's report of 2007 affirmed that the minority population in the United States climbed to 100.7 million people or 33.6 percent of the total population." Meaning that "one out of every three persons in the United States is a minority". And yet, a recent NAACP report found that "minority communities are still not adequately represented on broadcast television relative to their numbers".

Now, this lack of balanced and equitable representation translates into fewer job opportunities for minorities, fewer opportunities to make a living as a writer or director or an executive in our business, and consequently less access to lend our voices to the entertainment content that is created.

For minority content creators the low barriers to entry on the internet have allowed us to take initiative, create, produce and distribute our stories and develop a financially viable business.

But my ability, and the ability of many other new media content creators is dependent upon my ability to reach an audience, unimpeded and unencumbered by gatekeepers and filters.

This ability to prove our market has very strong socio-economic repercussions for our communities.

As an American and a Latina, I got tired of seeing the disproportionate amount of negative stereotypes in traditional media. As a creative, New Media empowered me. I saw in the web an opportunity, in whatever small way, to partake in redefining those unfair & unbalanced perceptions. The only requirement was that an audience be able to find these little 6 minute webisodes that I was writing.

I wanted to tell a story that was more in line with the vast majority of the 47 million Latinos who are contributing positively to our communities, rather than the oftentimes biased portrayals of mainstream media. Just last week, the the Pew Research Center's Project for Excellence in Journalism issued a report chastising the media's portrayal of Latino Americans.

My show, Ylse, is a bicultural dramedy about a modern American Latina. Someone with big dreams fighting thru other people's low expectations; juggling career, a not-so-successful love life and a family who sometimes doesn't understand her progressive American ways.

There is no way I could have gotten my show produced through traditional media. I was quickly dissuaded many times from even trying. With no precedent for such programming, and a custom of producing content that can be resold in other, most notably, European markets, I wasn't surprised to hear the skepticism I encountered.

[Slide: "...I've just seen all six webisodes of Ylse. I just wanted to write you to tell you that I LOVE the show! It was perfect. As a Latina it just makes me so proud to know that something like Ylse not only exist but is possible. You've inspired me to do write my own story about finding and using my voice".]

We started production almost 2 years ago. We are now effectively finding our audience. Our fan-base reaches beyond a target niche market. It is even broader than I could have imagined.

[Slide: "I hugely enjoyed Ylse yesterday, then read an interview with you, all the while marveling at how it is possible to come from opposite sides of the world and yet to end up so alike. I am a Russian-Jewish immigrant born in the former USSR (Ukraine). My family arrived in the US when I was eight (with nothing, of course, as was your case)....I now live in France with my family."]

Ylse's numbers have multiplied from a few thousand in season one to closing in on ½ million half way thru season 2. And we have achieved all of this without a marketing budget.

My start-up production company has been able to tell our culturally relevant American story because the internet allows us the unique opportunity to compete for hearts, eyes and minds with the billion dollar media conglomerates of today. Our success is based on the popularity and strength of our content, the audiences' ability to find us, and the sweat equity of an amazingly talented group of creative people.

The Writers Guild of America, West (WGAW) represents nearly 8,000 writers of television, film, and new media. Being the first person to join the WGA because of my work on the web simply shows that the web can nurture new voices, give us an opportunity to perfect our craft and be added to the mix of professional writers and producers effectively diversifying the talent pool.

As a small business owner, I hope to create jobs and open opportunities for others. Allowing ISPs to construct barriers to entry or to offer uncompetitive advantages to those with the deepest pockets will only serve to derail the innovation and entrepreneurial spirit that have driven the Internet since it was created -- the same freedom that allowed innovators to create the web in the first place. As the inventor of the WWW, Tim Berners-Lee stated "When I invented the Web, I didn't have to ask anyone's permission." I didn't need to ask anyone's permission when I created YLSE. I was able to work hard, pull together the talent, and launch a successful web series.

An open internet drives innovation, and encourages the independent American entrepreneurial spirit.

Failure to maintain the open Internet will mean we are repeating the mistakes of our own past. The Financial Interest and Syndication rules were designed to protect the ability for independent voices to be heard. Repealing them has had detrimental effects: It opened the door to media consolidation in traditional media which allowed a mere handful of companies to dominate the entertainment industry and shape the news and information that gets to the American public

and the world. Until the Internet, a viable distribution alternative to traditional media has never existed.

A neutral non-discriminatory internet is a market driven, equal playing field for all Americans regardless of ethnicity or socio-economic standing. It allows viewers to find the information and entertainment they want, without filters or gatekeepers. It is critical to the vitality of American public discourse, and our Democracy.

A neutral internet is our best opportunity for diverse voices to partake in the molding of the American perception and perspective.

Thank you for the chance to appear before you today.